

REMARKS

Claims 1-90 remain pending in the application, with claims 31-55 and 67-85 withdrawn from consideration because of a Restriction Requirement.

Finality of the Office Action

The Examiner has indicated the Office Action as being Final. However, the Office Action has raised a NEW grounds of rejection not based on amendments made by Applicants. In particular, the examiner now rejects claims 1-30, 56-65 and 86-90 as allegedly being directed toward non-statutory subject matter under 35 U.S.C. 101.

The Examiner cannot issue a NEW grounds of rejection under a Final Office Action that that was not necessitated by changes to the claims made by Applicants and that Applicants have not had an opportunity to respond to under a Non-Final Rejection. Applicants respectfully submit that the Examiner must withdraw the Finality of the Office Action to allow Applicants an opportunity to respond to the NEW rejections under a Non-Final Office Action.

35 USC 101 Rejection of Claims 1-30, 56-65 and 86-90

Claims 1-30, 56-65 and 86-90 stand rejected under 35 USC §101. This rejection is respectfully traversed, because the rejection fails to establish a prima facie case that the claims recite nonstatutory subject matter.

In particular, the rejection simply states "the claimed invention is directed toward non-statutory subject matter because the systems and methods of communicating and translating/transforming data are drawn to software features and the code to run those functions. There is no tangible embodiment for the 'system' or 'methods' in which the invention runs. The lack of hardware embodiment of the invention leaves the invention open to non-statutory subject matter as processes just run on a processor without a tangible result."

For Example, claims 1-8 and 87 specify a system for deploying content to devices. The system includes a translator operative to receive data sent from devices and to translate data into a standardized format, a content provider interface operative to receive the data in the standardized format and to

provide content data in the standardized format, a transformer operative to receive the content data and to transform the content data into a format for a particular device, and a session manager to examine data content communicated between at least one of the devices and the content provider and to identify and return state-based information based on interactions between the devices and the content provider. Hence, the claimed system is directed to a machine that performs a useful operation, namely receiving data sent from devices and to translate data into a standardized format, to transform the content data into a format for a particular device and to examine data content communicated between at least one of the devices and the content provider and to identify and return state-based information based on interactions between the devices and the content provider. Claim 86 recites a system directed toward a machine that performs a useful operation, namely communicating from a device to a controller using different communication schemes. Thus, claim 86 is statutory for at least the same reasons as claims 1-8 and 87.

It is well settled that "[i]f a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product." MPEP §2106.IV.B.2(a) at 2100-14 (Rev. 2, May 2004) (citing *In re Lowry*, 32 USPQ2d 1031, 1034-35 (Fed. Cir. 1994); *In re Warmerdam*, 31 USPQ2d 1754, 1760 (Fed. Cir. 1994). Further: "[a] claim limited to a machine or manufacture, which has a practical application in the technological arts, is statutory. In most cases, a claim to a specific machine or manufacture will have a practical application in the technological arts. MPEP §2106.IV.B.2(a) at 2100-15 (citing *In re Alappat*, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994) ("the claimed invention as a whole is directed to a combination of interrelated elements which combine to form a machine for converting discrete waveform data samples into anti-aliased pixel illumination intensity data to be displayed on a display means. This is not a disembodied mathematical concept which may be characterized as an 'abstract idea,' but rather a specific machine to produce a useful, concrete, and tangible result.")).

Moreover, 35 USC 101 reads that "Whoever invents or discovers any new and useful process, machine....may obtain a patent thereof...". Claims 9-30 56-66 and 88-90 are respectively directed toward a method of communicating with devices that use different communication schemes, method of communicating from a device to a controller using different communication schemes and a method of transforming data. Claims 9-30 56-66 and 88-90 recite steps that manipulate data to perform their respective recited methods to arrive at a "useful process" and produce a tangible result of manipulation of data. The Examiner is respectfully requested to review the latest guidelines for determining if claims are directed toward statutory subject matter that would reveal that claims 1-30, 56-65 and 86-90 are directed toward statutory subject matter.

Moreover, the Examiner has failed to identify any specific deficiency in the claims. See §MPEP 2106.IV.B at page 2100-11:

If the invention as set forth in the written description is statutory, but the claims define subject matter that is not, the deficiency can be corrected by an appropriate amendment of the claims. In such a case, Office personnel should reject the claims drawn to nonstatutory subject matter under 35 U.S.C. 101, but identify the features of the invention that would render the claimed subject matter statutory if recited in the claim. The Examiner has failed to identify the features of the invention that would render the claimed subject matter statutory.

For these and other reasons, the §101 rejection must be withdrawn.

Claims 1-6, 8-17, 23-27, 30, 56-66 and 86 over Jamtgaard in view of Allen

In the Office Action, claims 1-6, 8-17, 23-27, 30, 56-66 and 86 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,430,624 to Jamtgaard et al. ("Jamtgaard") in view of U.S. Patent No. 6,877,095 to Allen ("Allen"). The Applicants respectfully traverse the rejection.

Claims 1-6, 8-17, 23-27, 30, 56-66 and 86 recite a system and method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information

based on interactions between the devices and said content provider, the state based information comprising at least one of a type of device originating a request, a hypertext history and a **content provider state maintained for a back-end information source**.

In the Response to Arguments section of the Office Action the Examiner argued that Jamtgaard discloses "state based information by identifying type of device originating the request. Using an ID, that may contain a URL, name/value pair and cookie information so that the system can determine which rule to apply to the data based on the device information" at col. 6, lines 32-54. The Applicants respectfully disagree.

Thus, the Examiner acknowledged that Jamtgaard discloses use of an ID that contains a URL name/value pair and cookie information. However, none of Jamtgaard's ID that contains a URL name/value pair and cookie information in any allows identification of a type of device originating the request. In fact Jamtgaard fails to even disclose a need to identify a type of device originating the request. As discussed below, Jamtgaard's invention is directed toward converting information between different information appliances having different protocols and different browser specifications (see Abstract). Thus, Jamtgaard's invention is dependent upon knowing what protocols to convert between and what browser specification to convert to NOT dependent on state based information comprising a type of device originating the request, as recited by claims 1-6, 8-17, 23-27, 30, 56-66 and 86.

The Examiner argued In the Response to Arguments section of the Office Action that Allen "teaches at least one of 'a type of a device originating a request, a hypertext history and a content provider state maintained for a back-end information source' because Allen teaches a token or cookie containing the claimed information. The token contains information on the state of the user with the user's unique ID and state as defined by applicant's specification on page 18 (Allen: col. 6, lines 10-19; col. 13, lines 63-col. 14, line 2; lines 31-35)." The Applicants respectfully disagree.

Applicants claimed state information comprises at least one of a type of device originating a request, a hypertext history and a **content provider state** maintained for a back-end information source. The Applicants are unsure of what other limitations are being applied to the claimed features from Applicant's page 18, however a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claim that are not recited in the claim.

Moreover, the Examiner cites Allen at col. 6, lines 10-19; col. 13, lines 63-col. 14, line 2; lines 31-35 to disclose the recited state based information comprising at least one of a type of device originating a request, a hypertext history and a **content provider state** maintained for a back-end information source. However, a reading of Allen at col. 6, lines 13-14 discloses use of a "token [that] incorporates a representation or a digest of the user's session-state information." Allen fails to disclose state based information comprising at least one of a type of device originating a request, a hypertext history and a **content provider state** maintained for a back-end information source, as recited by 1-6, 8-17, 23-27, 30, 56-66 and 86.

The Examiner alleged in the Response to Arguments section of the Office Action that Allen's "session manager maintains a content provider state for the user to determine whether the user is permitted access to a requested source, such a web page. The state of the user's session are determined based on the identity of the user and the session-state token depicting the client's state with respect with respect to the resource. The back-end information source is the requested web page that the client seeks." However, even if everything that the Examiner alleged that Allen discloses were correct, i.e., that Allen allegedly discloses use of an identity of a user and a session-state token depicting a client's state with respect with respect to a resource, the Examiner has failed to show where Allen discloses reliance on state based information comprising at

least one of a type of device originating a request, a hypertext history and a **content provider state** maintained for a back-end information source, as recited by 1-6, 8-17, 23-27, 30, 56-66 and 86.

Moreover, the Applicants are not disputing Allen is performing some type of session management, which Jamtgaard is unrelated to. However, Applicants' claimed features provide a more complete solution to session management relying on state based information comprising at least one of a type of device originating a request, a hypertext history and a **content provider state** maintained for a back-end information source, as recited by 1-6, 8-17, 23-27, 30, 56-66 and 86.

The Examiner argued in the Response to Arguments section of the Office Action in response to Applicants' argument, reiterated below, that Jamtgaard modified by Allen is nonsensical that "It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of receiving, translating, and transforming content as taught by Jamtgaard to include a session manager as taught by Allen in order to improve scalability, speed, efficiency, reliability, and security as taught by Allen at col. 4, lines 49-57." However, the Examiner is taking the text from Allen out of context. Allen at col. 4, lines 56-57 discloses "Storing session-state information at an of the tiers impacts scalability, speed, efficiency, reliability, or security." However, Allen's solution to the drawback of "storing session-state information" is to "not store a user's actual session-state information on any tier in a stateless network." (see Allen, col. 6, lines 8-10). Thus, is it Allen's solution to NOT STORE session-state information that arrives at the recited benefits NOT the use of any particular session-state information. Thus, to arrive at the benefit that the Examiner alleges would result from modifying Jamtgaard with the disclosure of Allen, Jamtgaard would have to be modified to NOT STORE session-state information NOT to be modified with any particular type of information.

Moreover, the motivation that the Examiner is relying on to modify Jamtgaard is an alleged benefit that Allen discloses for use of such information, which is incorrect as discussed above. However, even if the benefit from Allen

that the Examiner relied on were true, that benefit would be a result of Allen's **ENTIRE DISCLOSURE** not simply use of state based information comprising the claimed features. Thus, the Examiner has failed to show how simply modifying Jamtgaard with the acknowledged deficiency, i.e., state based information comprising at least one of a type of device originating a request, a hypertext history and a content provider state maintained for a back-end information source, would result in the alleged benefit the leads to the alleged motivation to modify Jamtgaard.

Moreover, Jamtgaard's invention is directed toward converting information between different information appliances having different protocols and different browser specifications (see Abstract). Jamtgaard's invention is unrelated to session management. Thus, modifying Jamtgaard with stated based information comprising comprising at least one of a type of device originating a request, a hypertext history and a content provider state maintained for a back-end information source, even if Allen disclosed such information, would not benefit Jamtgaard's converting information between different information appliances having different protocols and different browser specifications. Hence, since the proposed modification or combination would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. MPEP § 2143.01, page 2100-132 (Rev. 2, May 2004) (citing In re Ratti, 123 USPQ 349 (CCPA 1959).

Moreover, the Examiner acknowledged Applicants' argument of the **nonsensical** nature of modifying Jamtgaard with Allen in the Response to Arguments section of the Office Action. As previously pointed out to the Examiner, Jamtgaard's invention is directed toward a translation server that includes a virtual browser for executing web content that an information appliance cannot execute (See at col. 5, lines 27-53). Allen's invention is directed toward sending tokens to a user on a client of a server. However, it is Jamtgaard's translation server that is performing browser functions. Modifying Jamtgaard to send a token to a user on a client of a server would be

nonsensical since the token would need to be used by the translation server that executes a virtual browser. The Examiner has failed to refute that sending a token to a device that could not use the information included in the token is **nonsensical**.

Thus, Jamtgaard modified by the disclosure of Allen would still fail to disclose or suggest a system and method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a type of device originating a request, a hypertext history and a **content provider state maintained for a back-end information source**, as recited by claims 1-6, 8-17, 23-27, 30, 56-66 and 86.

A benefit of examining data content communicated between a device and a content provider and to identify and return state-based information comprising at least one of a type of device originating a request, a hypertext history and a **content provider state maintained for a back-end information source** is, e.g., allowing more accurate tracking of a session for processing. Returning at least one of a hypertext history and a content provider state allows a device that normally lacks such features with a particular application to have full access to features that are related to a hypertext history and a content provider state. The cited prior art fails to disclose or suggest the claimed features having such benefits.

Accordingly, for at least all the above reasons, claims 1-6, 8-17, 23-27, 30, 56-66 and 86 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 7 and 29 over Jamtgaard in view of Allen and Namma

In the Office Action, claims 7 and 29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Jamtgaard in view of U.S. Patent No. 6,182,116 to Namma et al. ("Namma"). The Applicants respectfully traverse the rejection.

Claims 7 and 29 are dependent on claims 1 and 9, and are allowable for at least the same reasons as claims 1 and 9.

Claims 7 and 29 recite a system and method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a hypertext history and a **content provider state maintained for a back-end information source**.

As discussed above, Jamtgaard in view of Allen fails to disclose or suggest a system and method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a hypertext history and a **content provider state maintained for a back-end information source**, as recited by claims 7 and 29.

Namma is relied on to disclose sending data to more than one content provider (See Office Action, page 12). However, Namma fails to disclose anything related to session managing, much less disclose or suggest a system and method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a hypertext history and a **content provider state maintained for a back-end information source**, as recited by claims 7 and 29.

Accordingly, for at least all the above reasons, claims 7 and 29 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 18-22 over Jamtgaard in view of Allen and Nielson

In the Office Action, claims 18-22 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Jamtgaard in view of Allen, and further in view of U.S. Patent No. 5,899,975 to Nielson ("Nielson"). The Applicants respectfully traverse the rejection.

Claims 18-22 are dependent on claim 9, and are allowable for at least the same reasons as claim 9.

Claims 18-22 recite method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a hypertext history and a content provider state maintained for a back-end information source.

As discussed above, Jamtgaard in view of Allen fails to disclose or suggest a system and method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a hypertext history and a content provider state maintained for a back-end information source, as recited by claims 18 and 22.

The Office Action relies on Nielson to allegedly make up for the deficiencies in Jamtgaard in view of Allen to arrive at the claimed invention. The Applicants respectfully disagree.

Nielson is relied on to disclose two style sheets that are selected and applied independently to a second data at Nielson, col. 7, lines 31-36, and the capabilities of style sheets adding additional functionality and a much more

pleasing and semantically consistent presentation for a user at col. 1, lines 54-57 and col. 8, lines 28-29 (See Office Action, page 13).

Nielson appears to disclose using a style sheet for the generating audio information generated by a voice synthesizer from text (Abstract). Applicants' style sheet is related to control a translator and/or transformer in a communication path between a client and a content provider. Thus, Jamtgaard modified by Nielson would result in Jamtgaard using a style sheet to control the sound produced by audio information by a voice synthesizer, which is **nonsensical** since Jamtgaard fails to even disclose use of a voice synthesizer.

Moreover, Nielson fails to disclose session managing a session between a device and a content provider. Thus, Jamtgaard modified by the disclosures of Allen and Nielson would still fail to disclose, teach or suggest a method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a hypertext history and a **content provider state maintained for a back-end information source**, as recited by claims 18-22.

Accordingly, for at least all the above reasons, claims 18-22 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claim 28 over Jamtgaard in view of Allen and McCartney

In the Office Action, claim 28 was rejected under 35 U.S.C. §103(a) as allegedly being obvious over Jamtgaard in view of U.S. Patent Publication No. 2002/0010716 to McCartney et al. ("McCartney"). The Applicants respectfully traverse the rejection.

Claim 28 is dependent on claim 9, and is allowable for at least the same reasons as claim 9.

Claim 28 recites a method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices

and said content provider, the state based information comprising at least one of a hypertext history and a **content provider state maintained for a back-end information source**.

McCartney is relied on to disclose querying a provider database, receiving a previously registered XSL style sheet associated with a new content provider from a provider database, and optimizing a web site for clients having different capabilities (See Office Action, page 14).

McCartney discloses a system and method that generates web pages optimized for a client's capabilities, such as browser type, browser version, available transfer rate, display capabilities, and terminal device capabilities (Abstract). A server generates the web pages optimized for the client's capabilities (McCartney, Figs. 2 and 3).

McCartney discloses creation of original content web pages optimized for a client's capabilities, **NOT** session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, much less disclose or suggest state based information comprising at least one of a hypertext history and a **content provider state maintained for a back-end information source**, as recited by claim 28.

Thus, Jamtgaard modified by the disclosures of Allen and McCartney would STILL fail to disclose, teach or suggest a system and method of session managing to examine data content communicated between a device and a content provider and to identify and return state-based information based on interactions between the devices and said content provider, the state based information comprising at least one of a hypertext history and a **content provider state maintained for a back-end information source**, as recited by claim 28.

Accordingly, for at least all the above reasons, claim 28 is patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,
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